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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,195	09/26/2000	Dannie E. Martin	BS00-007	5610
36192	7590	02/22/2005	EXAMINER	
CANTOR COLBURN LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			NGUYEN, LEE	
			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/670,195

Applicant(s)

MARTIN, DANNIE E.

Examiner

LEE NGUYEN

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 12-22, 24-27 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 23 and 28-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Election/Restrictions

2. Applicant's election with traverse of Group I, claim 1-12 and 23-32, and species I, claims 2-11 and 28-31 in the reply filed on 12/01/2004 is acknowledged. The traversal is on the ground(s) that it is just traversing. This is not found persuasive because there is no detail how the restriction is traversed.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11, 23, 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Do (US 6,263,187) in view of Nilsen et al. (US 5,987,306).

Regarding claim 1, Do teaches a method of monitoring a cellular call, comprising the steps of: remotely accessing a switch MSC at a first location (mobile station, col. 2, lines 49-58), the switch switching one or more cellular sites in a cellular system (base stations 1-2, fig. 1); remotely placing the switch in a call monitor mode (col. 2, lines 51-52, numeral 12); recording call information related to a cellular call (col. 3, lines 7-9); transmitting the call information to a second location (col. 3, lines 9-12); inherently storing, at the second location 12 and displaying information at the second location 12 (operation support system). Do does not teach that the call information as data stored in the second location in a standard file format and displaying the data in a graphical format. According Nilsen, in

order to provide the user with a user-friendly report, data call to be monitored and recording involving a testing cellular call at a server CeNAS is transmitted to second location CS (figs. 1-2) and to be stored and displayed in a standard format of Windows configuration (col. 6, line 5 through col. 7, line 38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Nielsen to the monitoring system of Do in order to provide the user with a user-friendly report. Do as modified by Nielsen also teaches that the call information includes position information for the mobile telephone (col. 6, 4-5, 12-15 of Nielsen).

Regarding claim 2, Do as modified also teaches receiving information from a GPS receiver (Nielsen, col. 6, 12-15).

Regarding claim 3, Do as modified also teaches transmitting the position information over the cellular system (see figure 1, ARFCN of Nielsen).

Regarding claim 4, Do as modify also teaches wireless link (mobile call, col. 2, line 54 of Do).

Regarding claims 5-6, Do as modified by Nielson also teaches the plot of signal quality and which inherently includes the BER (col. 12, line 25 through col. 13, line 20 of Nielson, signal level and signal quality included in GSM 05.08).

Regarding claim 7, Do as modified also teaches a map (Nielsen, figures 2, 5B, 5C).

Regarding claim 8, Do as modified by Nielson teaches at least one of parsing, converting and scaling the call information to generate the data (col. 15, line 31 and col. 16, lines 7-15 of Nielson).

Regarding claim 9, Do as modified teaches displaying the identity of a serving cell site that is the cell site over which the cellular call is taking place (col. 11, 32-40, col. 15, 4-5, fig. 5C, constraints of Nielsen).

Regarding claim 10, Do as modified also teaches displaying a map on a serving cell site and cell sites that neighbor the serving cell site (see col.

12, 30-35 and handover from base station to base station along a certain route, col. 18, lines 59-62 of Nielson).

Regarding claim 11, Do as modified also teaches plotting a graph of the data and indicating when a call event has occurred (fig. 10B of Nielson).

Regarding claim 23, the apparatus claim is interpreted and rejected for the same reason as set forth in the method claim 2.

Regarding claim 28, Do as modified also teaches that the first computer is operable to display the cellular system information and GPS location information in real or near real time (col. 13, lines 10-14 of Nielsen).

Regarding claim 29, the claim is interpreted and rejected for the same reason as set forth in claim 8.

Regarding claim 30, the claim is interpreted and rejected for the same reason as set forth in claim 6.

Regarding claim 31, the claim is interpreted and rejected for the same reason as set forth in claim 10.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-11, 23, 28-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,751,457 (referred to as Patent'457 hereinafter) in view of Nielsen (US 5,987,306).

Regarding claims 1-2, claim 1 of Patent'457 teaches steps a) through f). Patent'457 fails to teach that the call information includes position information for the mobile telephone. Nielsen teaches that the call information includes position information for the mobile telephone that includes a GPS receiver (col. 6, 4-5, 12-15 of Nielsen). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the position information of Nielsen and claim 1 of Patent'457 in order to provide the location under test to the system engineer.

Regarding claim 3, Patent'457 as modified also teaches transmitting the position information over the cellular system (see figure 1, ARFCN of Nielsen).

Regarding claim 4, the claim is identical to claim 2 of Patent'457.

Regarding claims 5-6, Patent'457 as modified by Nielson also teaches the plot of signal quality and which inherently includes the BER (col. 12, line 25 through col. 13, line 20 of Nielson, signal level and signal quality included in GSM 05.08).

Regarding claim 7, Patent'457 as modified also teaches a map (Nielsen, figures 2, 5B, 5C).

Regarding claim 8, the claim is identical to claim 3 of Patent'457.

Regarding claim 9, the claim is identical to claim 4 of Patent'457.

Regarding claim 10, Patent'457 as modified also teaches displaying a map on a serving cell site and cell sites that neighbor the serving cell site (see col. 12, 30-35 and handover from base station to base station along a certain route, col. 18, lines 59-62 of Nielson).

Regarding claim 11, Patent'457 as modified also teaches plotting a graph of the data and indicating when a call event has occurred (fig. 10B of Nielson).

Regarding claim 23, the apparatus claim is interpreted and rejected for the same reason as set forth in the method claim 2.

Regarding claim 28, Patent'457 as modified also teaches that the first computer is operable to display the cellular system information and GPS location information in real or near real time (col. 13, lines 10-14 of Nielsen).

Regarding claim 29, the claim is interpreted and rejected for the same reason as set forth in claim 8.


Regarding claim 30, the claim is interpreted and rejected for the same reason as set forth in claim 6.

Regarding claim 31, the claim is interpreted and rejected for the same reason as set forth in claim 10.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 2/8/05
LEE NGUYEN
Primary Examiner
Art Unit 2682